



## 40 CFR Part 52

[EPA-R07-OAR-2022-0880; FRL-10388-01-R7]

### **Air Plan Approval; MO; Marginal Nonattainment Plan for the St. Louis Area for the 2015 8-Hour Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Missouri Department of Natural Resources (MoDNR) on September 8, 2021, and supplemented on April 8, 2022, as meeting the Marginal nonattainment area requirements for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard) for the Missouri portion of the St. Louis, MO-IL nonattainment area ("St. Louis area" or "area"). The EPA is proposing this action pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-R07-OAR-2022-0880 at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking

process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7629; email address: keas.ashley@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

## **Table of Contents**

- I. Written Comments
- II. What is the Background for this Proposed Action?
- III. What is the EPA's Analysis of Missouri's Submission?
- IV. Have the Requirements for Approval of a SIP Revision Been Met?
- V. What Action is the EPA Proposing to Take?
- VI. Environmental Justice Considerations
- VII. Statutory and Executive Order Reviews

## **I. Written Comments**

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2022-0880, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the

web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

## **II. What is the Background for this Proposed Action?**

EPA has determined that ground-level ozone is detrimental to human health. On October 1, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Under EPA's regulations at 40 Code of Federal Regulations (CFR) part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.070 ppm, when truncated after the thousandth decimal place, at all ozone monitoring sites in the area. See 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent 3 years of quality assured ozone monitoring data. On April 30, 2018, EPA designated the St. Louis, MO-IL bi-state area as Marginal nonattainment for the 2015 Ozone NAAQS (83 FR 25776). The area included Boles Township of Franklin County, St. Charles County, St. Louis County, and St. Louis City in Missouri, and Madison and St. Clair Counties in Illinois. As part of that same action, EPA designated Jefferson County and

the remaining portion of Franklin County, in Missouri, and Monroe County in Illinois, as attainment/unclassifiable. On July 10, 2020, the District of Columbia Circuit Court remanded the Jefferson County, Missouri, and Monroe County, Illinois, designations (among other designations) to the EPA. The Court upheld EPA's designation of Boles Township as nonattainment and the remainder of Franklin County as attainment/unclassifiable. In response to the Court remand, the EPA revised the Jefferson County, Missouri, and Monroe County, Illinois designation to nonattainment on May 26, 2021 (86 FR 31438).

On October 7, 2022, the EPA published a final rulemaking including EPA's determination of whether areas designated as Marginal nonattainment for the 2015 8-hour ozone NAAQS attained by the applicable attainment date of August 3, 2021 (87 FR 60897). In that document, the EPA determined the St. Louis bi-state area, among other areas, failed to attain by the attainment date based on the monitoring data available as of the attainment date, for the 2018-2020 time period. In that time period, the highest design value in the St. Louis area was 0.071 ppm which is above the level of the standard, 0.70 ppm. As a result of EPA's determination that the St. Louis area failed to attain by the Marginal attainment date, the area is reclassified to Moderate nonattainment, effective November 7, 2022. Moderate nonattainment areas must attain by August 3, 2024 and submit a Moderate nonattainment area plan and its required elements by January 1, 2023. The CAA requirements applicable to Marginal

ozone nonattainment areas continue to apply to Missouri despite the reclassification to Moderate. Missouri's submission to meet the Marginal ozone nonattainment area requirements is the subject of this action.

### **III. What is the EPA's Analysis of Missouri's Submission?**

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The St. Louis area was classified as Marginal under subpart 2 for the 2015 ozone NAAQS at the time of its nonattainment designation. At the time of Missouri's September 2021 SIP submission, the area was subject to the relevant requirements of subpart 1 contained in section 172(c) and section 176. Similarly, the area was subject to the subpart 2 requirements contained in section 182(a) (Marginal nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the April 16, 1992, General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and the April 28, 1992 supplement (57 FR 18070).

As provided in subpart 2, for Marginal ozone nonattainment areas, the specific requirements of section 182(a) apply in lieu of the attainment planning requirements that would otherwise

apply under section 172(c), including the attainment demonstration and reasonably available control measures (RACM) under section 172(c)(1), reasonable further progress (RFP) under section 172(c)(2), and contingency measures under section 172(c)(9).<sup>1</sup>

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The EPA most recently approved Missouri's New Source Review (NSR) program on August 11, 2022 (87 FR 49530).<sup>2</sup>

CAA section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than 3 years from the date of the nonattainment designation. For the St. Louis nonattainment area, the Marginal nonattainment area plan elements required under CAA section 172 and 182 were due August 3, 2021. Missouri submitted the requisite plan elements on

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<sup>1</sup> See 42 U.S.C. 7511a(a).

<sup>2</sup> In its August 2022 action, the EPA partially approved and partially disapproved Missouri's SIP revision related to state rule 10 CSR 10-6.060. In the August 2022 action, the EPA disapproved one provision related to voluntary permits and approved the remainder of the SIP revision. For purposes of this action, the EPA notes this partial disapproval does not affect the state's ability to continue implementation of its SIP-approved NSR program.

September 8, 2021. In this action, the EPA is proposing to approve the September 8, 2021 submission from Missouri as meeting the relevant requirements of CAA section 172 and 182.

Section 182(a)(2)(C) requires states to implement a permitting program requiring permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area. In its September 2021 submission, MoDNR confirms it has a fully-approved and fully-implemented Part D NSR permitting program for new major sources and significant modifications of existing sources enabled by SIP-approved state rule 10 Code of State Regulations (CSR) 10-6.060 *Construction Permits Required*. Missouri also notes it has been delegated full authority to implement its NSR program by the EPA.

Section 182(a)(3)(A) requires states to submit revised emission inventories every three years until the area is redesignated to attainment. Section 182(a)(3)(B) requires a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO<sub>x</sub> emissions. In its September 2021 submission, MoDNR committed to providing future updates to its emissions inventory at least once every 3 years to meet the requirement of section 182(a)(3)(A). To meet the requirement of section 182(a)(3)(B), the state certified that SIP-approved state rule 10 CSR 10-6.110 requires annual emissions statements from permitted sources in the state.

Section 182(a)(4) requires establishing a Marginal Area emission offset reduction ratio of 1.1:1 for VOC emissions. As noted in MoDNR's September 2021 SIP revision, the requirement for emission offset reductions is part of Missouri's NSR program and codified in the state's regulations at 10 CSR 10-6.060(7)(C)1. The corresponding offset ratio for each ozone area classification (i.e. 1.1:1 for Marginal) is found in the Federal code at 40 CFR 51.165(a)(9). Thus, Missouri has satisfied the CAA section 182(a)(4) requirement for Marginal Area Plan submissions in establishing a Marginal Area emission offset reduction ratio of 1.1:1 in its NSR program by SIP-approved rule consistent with the corresponding Federal code.

As noted above, section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) emitted within the boundaries of the ozone nonattainment area. The state's "Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2015 8-Hour Ground Level Ozone National Ambient Air Quality Standard" submitted by the state on September 8, 2021, and supplemented on April 8, 2022, included a 2017 base year emissions inventory for the Missouri portion of the St. Louis area. The EPA has reviewed Missouri's emissions inventory submission and as discussed further below, is proposing to approve it as meeting the requirements of section 182(a)(1) of the CAA.



The section 182(a)(1) base year inventory is defined in the SIP Requirements Rule as "a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO<sub>x</sub> emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)." See 40 CFR 51.1300(p). The inventory year must be selected consistent with the baseline year for the RFP plan as required by 40 CFR 51.1310(b), the inventory must include actual ozone season day emissions as defined in 40 CFR 51.1300(q), and contain data elements consistent with the detail required by 40 CFR part 51, subpart A. See 40 CFR 51.1315(a), (c), and (e). In addition, the point source emissions included in the inventory must be reported according to the point source emissions thresholds of the Air Emissions Reporting Requirements (AERR) in 40 CFR part 51, subpart A.

Missouri selected 2017 as the base year for the emissions inventories, which was the most recent calendar year for which a complete triennial inventory was required to be submitted to the EPA under 40 CFR part 51, subpart A, at the time of plan development. This base year is consistent with the regulations for 2015 ozone NAAQS nonattainment area base year emission inventory regulations. See 40 CFR 51.1315(a) and 51.1310(b). The emissions inventory is based on data developed and submitted by the MoDNR to EPA's 2017 National Emissions Inventory (NEI), and it contains data elements consistent with the requirements of 40 CFR part 51, subpart A.

Missouri's emissions inventory for the St. Louis Area provides 2017 typical ozone season day emissions for NO<sub>x</sub> and VOC for the following general source categories: point sources, nonpoint or area sources, on-road mobile sources, and non-road mobile sources. MoDNR documents the methodology used to determine the typical ozone season day emissions by source category in the appendices to its September 2021 submittal, which is included in the docket for this action.

Point sources are large, stationary, identifiable sources of emissions that release pollutants into the atmosphere. NO<sub>x</sub> and VOC emissions were calculated by using facility-specific emissions data reported to the 2017 NEI from sources that are required to submit inventory data according to the AERR. A detailed account of the point source emissions can be found in Appendix D to Missouri's September 2021 submittal and Appendix E to Missouri's April 2022 submittal.

Area or nonpoint sources are small stationary sources of emissions, which due to their large number, collectively have significant emissions (e.g., dry cleaners, service stations). Emissions for these sources are estimated at the county level and were obtained from the 2017 NEI. A detailed account of the area or nonpoint source emissions can be found in Appendix C of Missouri's September 2021 submittal and Appendix E to Missouri's April 2022 submittal.

On-road mobile sources include vehicles used on roads for transportation of passengers or freight. For the St. Louis area,

on-road emissions inventories were developed using the latest version of EPA's Motor Vehicle Emissions Simulator (MOVES), MOVES3, for each ozone nonattainment county. County level on-road emissions modeling was conducted using county-specific vehicle populations and other local data. A detailed account of the on-road source emissions and methodology can be found in Appendices A and B of Missouri's September 2021 submittal and Appendix E to Missouri's April 2022 submittal.

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use the roadways (e.g., lawn mowers, construction equipment, railroad locomotives, and aircraft). Missouri calculated emissions for most non-road sources using the MOVES model's non-road option. Estimated non-road emissions for commercial marine vessels, locomotives and aircraft are based on reported activity data. A detailed account of non-road mobile source emissions can be found in Appendix B of Missouri's September 2021 submittal and Appendix E to Missouri's April 2022 submittal.

As noted in MoDNR's submittal, the 2017 emission inventory is created at the annual level for most source categories. Missouri performed temporal allocation of emissions for all nonpoint, some nonroad and all event source categories using the Sparse Matrix Operator Kernel Emissions (SMOKE) model. For point source data, Missouri utilized reported data to estimate ozone season day emissions specific to each facility. For on-road and

non-road emissions, the MOVES3 model provides an output at the temporal scale of total daily emissions. As described in MoDNR's submittal, a typical weekday in July is selected as the representative typical ozone season day for these model runs.

In its April 8, 2022, submittal, MoDNR provided an updated 2017 base year emissions inventory using the latest version of EPA's MOVES3 model for on-road and non-road sources as well as updates to certain non-road categories. Section 7 and Appendix E of Missouri's April 2022 SIP submission included in the docket for this action contain further information related to the updated 2017 nonattainment base year emissions inventory. Table 1 provides a summary of the nonattainment base year anthropogenic emissions inventories for the Missouri portion of the St. Louis area.<sup>3</sup>

<b>Table 1–2017 Emissions for the Missouri Portion of the St. Louis Area</b> <b>[Tons/Ozone Season Day]</b>								
County	Point		Area		On-road		Non-road	
	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC
Boles Township, Franklin County	21.86	1.29	0.08	1.08	1.40	0.49	0.64	0.25
Jefferson County	22.37	2.24	0.48	6.99	8.88	3.42	2.47	1.66
St. Charles County	18.94	3.71	0.92	12.03	11.36	3.94	5.63	3.79
St. Louis County	5.54	1.30	2.83	39.08	37.30	10.53	14.21	16.37

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<sup>3</sup> This table contains the updated 2017 base year emissions inventory as contained in Table 23 on page 41 of Missouri's April 2022 Submission titled, "Maintenance Plan for the St. Louis Nonattainment Area for the 2015 Ozone Standard" which is included in the docket for this action. In April 2022, Missouri separately submitted a redesignation request for the St. Louis area, that submittal also contained information on the updated 2017 base year inventory and is included in the docket for this action, it is titled, "Redesignation Request for the St. Louis Nonattainment Area for the 2015 Ozone Standard."

<b>Table 1–2017 Emissions for the Missouri Portion of the St. Louis Area</b> <b>[Tons/Ozone Season Day]</b>								
County	Point		Area		On-road		Non-road	
	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC
St. Louis City	3.19	2.71	0.99	10.46	9.97	3.68	3.78	1.86
<b>Total</b>	<b>71.90</b>	<b>11.25</b>	<b>5.29</b>	<b>69.65</b>	<b>68.92</b>	<b>22.05</b>	<b>26.74</b>	<b>23.94</b>

Missouri's April 2022 submittal contains additional plan elements such as maintenance plan, contingency plan and attainment year inventory. In today's action, the EPA is only proposing to approve the updated 2017 nonattainment base year emissions inventory as included in the April 2022 submittal as meeting the requirements of CAA section 182(a)(1) and is not acting on the other elements contained in the April 2022 submittal. The EPA has reviewed Missouri's nonattainment base year emissions inventories for the St. Louis Area and proposes to approve them as meeting the requirements under CAA section 182(a)(1) and the SIP Requirements Rule for the 2015 8-hour ozone NAAQS, as well as the requirements in 40 CFR part 51, subpart A. Specifically, EPA proposes to approve Missouri's Marginal nonattainment area plan as submitted on September 8, 2021 and supplemented on April 8, 2022, as meeting the Marginal nonattainment area requirements of CAA section 182(a) for the 2015 8-hour ozone NAAQS for the Missouri portion of the St. Louis area.

#### **IV. Have the Requirements for Approval of a SIP Revision Been Met?**

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The

submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on the September 8, 2021, SIP revision from April 26, 2021, to June 3, 2021, and held a public hearing on May 27, 2021. During the public comment period, the State received three comments from the EPA. The State responds to the comments in its submittal and made changes to the plan as a result of the comments. The State provided public notice on the April 8, 2022, SIP revision from December 27, 2021, to February 3, 2022, and held a public hearing on January 27, 2022. During the public comment period, the State received comments from various entities. The State addressed the comments in its submittal. No comments received on the April 8, 2022, submittal were related to the updated 2017 nonattainment base year emissions inventory. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA and implementing regulations.

#### **V. What Action is the EPA Proposing to Take?**

The EPA is proposing to approve a SIP revision submitted by the MoDNR on September 8, 2021, and supplemented on April 8, 2022, as meeting the Marginal nonattainment area requirements of CAA section 182(a) for the 2015 8-hour ozone NAAQS for the Missouri portion of the St. Louis area.

#### **VI. Environmental Justice Considerations**

While EPA did not perform an area-specific environmental justice analysis for purposes of this action, due to the nature of the action being taken here, i.e. to merely approve emissions

inventories and certifications regarding Missouri's fully approved permitting program as meeting the relevant plan requirements for Marginal nonattainment areas, as explained in this preamble, this action is expected to have no impact on air quality. For these reasons, this action is not expected to have a disproportionately high or adverse human health or environmental effects on a particular group of people.

## **VII. Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in section VI of this action, "Environmental Justice Considerations."

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those



areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: November 30, 2022.

Meghan A. McCollister,  
Regional Administrator,  
Region 7.



For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart AA-Missouri**

2. In § 52.1320, the table in paragraph (e) is amended by adding the entry “(85)” to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA-Approved Missouri Nonregulatory SIP Provisions**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(85) Marginal Plan for the St. Louis 2015 8-Hour Ozone Nonattainment Area	St. Louis Area: Missouri counties of Jefferson, St. Charles, and St. Louis along with the City of St. Louis and Boles Township in Franklin County	9/8/2021, 4/8/2022	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	This action approves the Marginal nonattainment area plan for the St. Louis Area for the 2015 8-hour Ozone NAAQS [EPA-R07-OAR-2022-0880; FRL-10388-01-R7].

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